IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9215 of 2005

Between:

G. Appala Naidu, S/o. Appala Swamy Naidu,
R/o. Vengapuram, Balligipet Mandal, Vizianagaram District.

..... PETITIONER

AND

1 The Superintending Engineer, Panchayat Raj, Srikakulam.
2 The Executive Engineer, Panchayt Raj Division,
Parvathipuram, Viziangaram District.
3 The Pay & Accounts Officr, Viziangaram, Vizizanagaram
District.

.....RESPONDENTSS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondentss seeking to recover the seignorage charges for ordinary earth from out of the bills payable for executing the contract works covered under the Agreement No.9/2004-2005 dt. 26.7.2004 executed by the 1st respondents herein in favour of the petitioner despite the orders passed by the Government in Memo No.1885/SRSB.1 (2)/2003-04 dt. 8.2.2003 as illegal, arbitrary, unjust and without jurisdiction and consequently direct the respondentss to implement the orders passed by the Government in Memo No.1885/SRSB.1 (2)/2003-4 dt. 8.2.2003 and pay the contract bills for the above said works without recovering the seignorage charges from the petitioner for ordinary earth.

Counsel for the Petitioner:MR.C.H.SATISH KUMAR

Counsel for the Respondentss: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER:

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The petitioner is assailing the action of the respondents in seeking to recover seignorage fee on ordinary earth and deducting the same from the final bill payable to the petitioner in respect of the work awarded under the agreement dated 27.06.2005.

When the matter is taken up for consideration, learned counsel for both parties represented that the issued raised in this writ petition is squarely covered by the decision of this Court in W.P.No.18156 of 2003 dated 29.08.2003, whereunder, having considered an identical issue, this Court held that since, admittedly 'ordinary earth' was not included in the list of materials shown in the agreement which are leviable with seignorage fee, it is clear that the parties to the agreement never intended to fasten the liability of payment of seignorage fee in respect of ordinary earth on the contractor and therefore, he cannot be made liable for payment of seignorage fee in respect of ordinary earth and accordingly allowed the said writ petition.

Accordingly, following the decision of in W.P.No.18156 of 2003, I hold that the respondents are not entitled to recover the seignorage fee on ordinary earth from the final bill of the

petitioner and the writ petition is allowed as prayed for. No costs.

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25.04.2005

Note: Furnish C.C., in one week.

(B/O)

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To

1 The Superintending Engineer, Panchayat Raj, Srikakulam.
2 The Executive Engineer, Panchayt Raj Division, Parvathipuram, Viziangaram District.
3 The Pay & Accounts Officr, Viziangaram, Vizizanagaram District.

4 Two C.Cs to the G.P. for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT).

5 2 CD copies.